

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JAMES PAUL DAHL, #72584

PETITIONER

VERSUS

CIVIL ACTION NO. 1:09-cv-298HSO-JMR

RON KING

RESPONDENT

**ORDER OVERRULING PETITIONER'S OBJECTION,
ADOPTING REPORT AND RECOMMENDATIONS**

This cause comes before the Court on Petitioner James Paul Dahl's Objection [51] to the Report and Recommendations [49] of Chief Magistrate Judge John M. Roper entered in this cause on September 9, 2011. Magistrate Judge Roper reviewed Petitioner James Paul Dahl's Re-Newed [sic] Motion for Leave of the Court to Allow, and Direct, a Full Discovery [42], and determined that the Motion should be denied. After review of the record, the Court, being fully advised in the premises, finds that Petitioner's Objection should be overruled, and that said Report and Recommendations [49] should be adopted as the opinion of this Court.

I. LEGAL STANDARD

Because an Objection has been filed to the Magistrate's Report and Recommendations, this Court is required to "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also Longmire v. Gust*, 921 F.2d 620, 623 (5th Cir. 1991) (a party is "entitled to a de novo review by an Article III Judge as to those issues to which an objection is made"). The Court is not required, however, to reiterate the findings and conclusions of the Magistrate Judge, *Koetting v. Thompson*, 995 F.2d 37, 40 (5th Cir. 1993), nor need it consider objections which

are frivolous, conclusive, or general in nature, *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1997). Where, however, a party fails to file specific objections to a magistrate judge's rulings, the district court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

II. DISCUSSION

On October 1, 2009, Petitioner filed a Motion for Leave of Court to Invoke Discovery [16], which the Magistrate Judge denied on November 16, 2009. *See* Order [19]. Petitioner sought review of the Magistrate's Order [19]. Obj. [20]. On May 19, 2010, this Court overruled Petitioner's Objection [20] to the discovery Order [19], and affirmed the Magistrate's findings. Order [28]. Petitioner filed a Motion for Reconsideration and/or Request for Certificate of Appealability [32], which was denied by Order [34]. Petitioner then filed a Petition Requesting Permission to Appeal [38], which was dismissed in a per curiam order by the United States Court of Appeals for the Fifth Circuit. *See* Order [40]. Petitioner then filed the present Re-Newed Motion for Leave of the Court to Allow, and Direct, a Full Discovery [42]. The Magistrate found that Petitioner "alleges no new facts to support his claim for an evidentiary hearing." Rep. and Rec. at p. 2. The Magistrate then denied Petitioner's Motion. Order [55].

In his Objection, Petitioner reiterates that he is entitled to discovery and an evidentiary hearing, and otherwise rehashes facts and arguments that have already been presented to this Court. After a thorough and exhaustive de novo review, the

Court remains unpersuaded by Petitioner's arguments, and finds that the Magistrate Judge's Report and Recommendations are well reasoned, and correctly find the applicable facts and apply the governing legal standards.

III. CONCLUSION

For the reasons stated herein, the Court will overrule Petitioner's Objection [51] and adopt the Magistrate Judge's Report and Recommendations [49] as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Petitioner's Objection [51] filed in this cause is **OVERRULED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Report and Recommendations [49] of Chief Magistrate Judge John M. Roper are adopted in their entirety as the finding of this Court.

SO ORDERED AND ADJUDGED, this the 29th day of March, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE